

Judge Parley

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

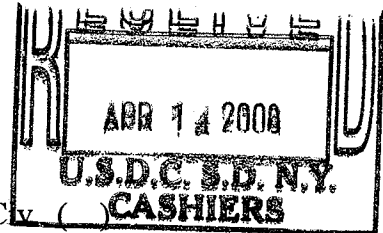
GETTY IMAGES (US), INC.,

Plaintiff,

-against-

RUTH INDUSTRIES, INC.

Defendants.



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COMPLAINT FOR
COMPENSATORY,
STATUTORY AND
OTHER DAMAGES AND
INJUNCTIVE RELIEF

Plaintiff, Getty Images (US), Inc., by its undersigned attorneys Satterlee Stephens Burke & Burke LLP, for its Complaint against Ruth Industries, Inc., alleges, upon information and belief, as follows:

PARTIES

1. Getty Images (US), Inc. ("Getty Images") is a New York corporation with its principal place of business at 601 North 34th Street, Seattle, Washington.
2. Defendant Ruth Industries, Inc. ("Ruth") is a corporation whose business includes the production and sale of industrial and consumer chemical products such as pesticides and disinfectants. Upon information and belief, at all times relevant to the allegations in this complaint, Defendant maintained a place of business in the state of Missouri.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1338 (copyright) in that this case involves claims brought under federal copyright law, 17 U.S.C. § 101 et seq.

4. Personal jurisdiction and venue are proper in this District pursuant to 28 U.S.C. §1400(a) because Defendant may be found in this District.

BACKGROUND

5. Plaintiff Getty Images is one of the world's leading content providers, supplying high quality, relevant imagery and related services to advertising agencies, graphic design firms, and film and broadcasting companies, to editorial customers involved in newspaper, magazine, book, CD-ROM and online publishing, and to corporate marketing departments and other business customers. Getty Images generates revenue from licensing the rights to use its imagery and from providing related services. Revenue is principally derived from a large number of relatively small transactions involving licensing rights to use single still images, film clips or CDs containing multiple images.

6. Most of the images in Getty Images's creative collections are obtained from independent photographers and filmmakers on an exclusive basis. Professional photographers and filmmakers prefer to retain ownership of their work. As a result, copyright to an image remains with the contributing photographer or filmmaker in most cases.

7. Getty Images was the first company to license imagery via the Internet and today delivers virtually all of its visual content digitally. Getty Images's web site, gettyimages.com, serves an average of 3.2 million thumbnails, 6.5 million visits and 3.5 million unique users in addition to an average of 167 million page views each month. Visitors to Getty

Images's web site can search through and view hundreds of thousands of images and obtain licenses for those images online.

8. Upon information and belief, Ruth owns and operates a web site at <http://www.ruthindustries.com/www.ruthindustries.com/>. Defendant Ruth holds itself out to be a company "specializ[ing] in solving your problems by chemical action," <http://www.ruthindustries.com/www.ruthindustries.com/products.html>, and claims to be "recognized by authorities in and out of our field as a stable, responsible organization." <http://www.ruthindustries.com/www.ruthindustries.com/about.html>. Ruth directs its marketing efforts towards individuals residing in all parts of New York and in this district and those individuals may download from Ruth's web site a purchase order for the purchase of Ruth's products for delivery in this state and in this district.

9. On January 31, 2007, Plaintiff discovered that Defendant had obtained copies of twenty-two images exclusively licensed to Getty Images and incorporated those images into the web site <http://www.ruthindustries.com/www.ruthindustries.com/index.html>. This use was continuous and ongoing until approximately April of 2007. Upon information and belief, Defendant began using these images in 2001. Defendant's use of the twenty-two images was unauthorized and violated the rights of Getty Images and of the authors of those images.

10. Eight of the images Defendant copied and incorporated into the <http://www.ruthindustries.com/www.ruthindustries.com/index.html> web site have been registered with the United States Copyright Office. The names of the images, image identification numbers, source collection, registration date and registration numbers are set forth below:

	Name	Image Number	Collection	Date of Registration	Registration Number
1	Young Woman	10109469	The Image Bank	12/6/2007	VA-1-623-592
2	Boy (6-8) Smiling, Portrait, Close-Up	BA16616	Taxi	12/6/2007	VA-1-623-594
3	Couple Buying a Car	10073522	The Image Bank	12/6/2007	VA-1-623-588
4	Baby (6-9 months) Making Face, Close-Up, Overhead View	10167543	The Image Bank	12/6/2007	VA-1-623-587
5	Men Sampling Water from Clarifier Tank at Waste Treatment Plant	EA3962-001	Stone	12/7/2007	VA-1-623-801
6	Female Researcher Preparing Cultures (Focus on Face)	AB23469	Taxi	12/7/2007	VA-1-623-802
7	Lab Technician Removing Flasks from Refrigerator	AB26324	Taxi	12/7/2007	VA-1-623-739
8	Office Building Exterior	10165226	The Image Bank	10/18/2000	VAu-491-687

Copies of these registrations are attached hereto as Exhibit A.

11. As noted in Paragraph 10, one of the images Defendant copied and incorporated into the <http://www.ruthindustries.com/www.ruthindustries.com/index.html> web site was an image identified as Image No. 10165226 entitled "Office Building Exterior" from the Image Bank Collection. Image No. 10165226 was registered with United States Copyright Office on October 18, 2000, Registration Number VAu-491-687. This registration pre-dates publication and pre-dates Defendant's infringing use.

12. Defendant also copied into the Ruth web site fourteen other images exclusively licensed to Getty without authorization or license.

13. Attached hereto as Exhibit B are screen shots of the Ruth web site found at <http://www.ruthindustries.com/www.ruthindustries.com/index.html> showing web pages that incorporate unauthorized copies of images exclusively licensed to Getty Images.

14. The Defendant's unauthorized use of copyright protected images has caused Getty Images to suffer damages.

FIRST CAUSE OF ACTION -- COPYRIGHT INFRINGEMENT

15. Plaintiff Getty Images incorporates paragraphs 1 through 14 above, as though fully set forth herein.

16. Getty Images is the exclusive licensee of the images that are the subject of this action. Those images have validly registered copyrights, as evidenced by the copyright registration certificates contained in Exhibit A.

17. Defendant reproduced, distributed and displayed those images without Getty Images's authorization.

18. The actions and conduct by Defendant as described above infringe upon Getty Images's exclusive rights granted under 17 U.S.C. § 106 to display, reproduce and distribute the registered copyrighted works to the public.

19. Defendant's actions and conduct constitute willful copyright infringement under the Copyright Act of 1976, 17 U.S.C. § 501.

20. Image No. 10165226 was registered with United States Copyright Office on October 18, 2000, Registration Number VAu-491-687. Upon information and belief, this registration pre-dates the Defendant's infringing use of this image.

21. As a result of the copyright infringement described above, Plaintiff Getty Images is entitled to relief including, but not limited to, injunctive relief, actual or statutory damages, statutory costs and attorneys' fees, and pre-judgment interest.

WHEREFORE, Plaintiff Getty Images prays for the following relief:

A. For an award pursuant to 17 U.S.C. § 504(b) of Defendant's profits and for actual damages in such amount as may be found in connection with Defendant's use of each of the images listed in Paragraph 10 above; for an award pursuant to 17 U.S.C. § 504(c) of statutory damages of up to \$150,000 based upon Defendant's willful infringement of Image No. 10165226; for an order pursuant to 17 U.S.C. § 502 permanently enjoining Defendant from infringing Plaintiff's copyrighted images; and for an award pursuant to 17 U.S.C. § 505 of costs and attorneys' fees for infringement of Image No. 10165226;

B. For prejudgment interest on the amount of the award to Plaintiff; and

C. And for such other and further relief as the Court deems just and proper.

Dated: New York, New York
April 14, 2008

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